

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of)	
)	
ENTERGY NUCLEAR OPERATIONS, INC.,)	
ENTERGY NUCLEAR GENERATION)	
COMPANY, AND HOLTEC)	Docket Nos. 50-293 & 72-1044
DECOMMISSIONING INTERNATIONAL,)	
LLC; CONSIDERATION OF APPROVAL OF)	
TRANSFER OF LICENSE AND)	
CONFORMING AMENDMENT)	
)	
(Pilgrim Nuclear Power Station))	

**REPLY OF THE COMMONWEALTH OF MASSACHUSETTS IN
SUPPORT OF ITS MOTION FOR AN ENLARGEMENT OF TIME TO FILE AN
APPLICATION TO STAY A NUCLEAR REGULATORY COMMISSION STAFF
ORDER APPROVING THE LICENSE TRANSFER APPLICATION**

Petitioner, the Commonwealth of Massachusetts (Commonwealth or Massachusetts), submits this short reply to: (i) clarify the scope of its Motion for an Enlargement of Time to File an Application to Stay a Nuclear Regulatory Commission (NRC) Staff Order Approving the License Transfer Application; (ii) refute Applicants' misleading characterization of the bases for the extension request; and (iii) describe why the Commonwealth's interests in a short extension outweigh Applicants' purported concerns.¹ In short, Applicants provide no basis for denying what amounts to a short, five calendar day enlargement of time.

First, on Friday, August 16, 2019, the Commission entered an Order on the Commonwealth's Emergency Motion for Clarification of the Commission's August 14, 2019 Memorandum and Order (CLI-19-08), which helpfully clarifies that an application to stay under

¹ Applicants filed their Answer under 10 C.F.R. § 2.1325, which, unlike other NRC regulations that expressly prohibit replies either completely, *id.* § 2.1327(c), or without leave, *id.* § 2.323(c), is silent on the issue, *id.* § 2.1325; *see also Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 452 (2002) (disparate inclusion or exclusion of term presumed intentional).

10 C.F.R. § 2.1327 would be due five days from the date the NRC Staff issues an order approving the license transfer application. In light of that decision, the Commonwealth's requested enlargement of time is effectively for only five additional days beyond what the regulation provides. *See* Mot. for Enlargement of Time at 1 (seeking permission to file application within ten days *of the date* the NRC Staff issues a license transfer approval order).

Second, Applicants mischaracterize the basis for the Commonwealth's request for an extension. *See* Applicants' Answer at 4. Contrary to Applicants' misleading representation, Counsel for the Commonwealth provided concrete *examples* of the pre-existing obligations that justify the requested enlargement of time, including an appearance for an August 28, 2019, argument in the United States District Court for the District of Massachusetts that cannot be rescheduled in a case that implicates the constitutionality of a Massachusetts law. *See* Mot. for Enlargement of Time ¶ 3, at 3. As the Commission made clear in a case Applicants themselves cite, pre-existing commitments, including ones dictated by the judiciary, provide legitimate bases for satisfying the Commission's "good cause" requirement. *Tennessee Valley Auth.* (Bellefonte Nuclear Plant, Units 1 & 2), CLI-10-26, 72 N.R.C. 474, 476 (2010).

Third, Applicants' concern about how "[a]ny prolonged uncertainty" may impact Pilgrim employees provides absolutely no basis for denying the Commonwealth's request for *five* extra days to protect the interests of the tens of thousands of Massachusetts residents and their communities that surround Pilgrim and the millions of Massachusetts taxpayers that may be adversely affected by Applicants' requested action. And, in no event should a decision that Holtec and Entergy elected to make—to delay the submission of their application to such time as NRC action on it was certain to occur *after* the plant's closure—be allowed to deny the Commonwealth's reasonable, supported request for a mere five calendar day extension.

* * *

For the foregoing reasons, and for good cause shown, the Commonwealth requests that the Secretary grant its Motion for an Enlargement of Time.

Respectfully submitted this 18th day of August, 2019,

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS

By its attorneys,

MAURA HEALEY
ATTORNEY GENERAL

Signed (electronically) by

SETH SCHOFIELD

Senior Appellate Counsel

JOSEPH DORFLER

Assistant Attorney General

Energy and Environment Bureau

Massachusetts Attorney General's Office

One Ashburton Place, 18th Floor

Boston, Massachusetts 02108

617-963-2000

seth.schofield@mass.gov

joseph.dorfler@mass.gov

Dated: August 18, 2019

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CERTIFICATION OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that the Commonwealth of Massachusetts' Reply in Support of its Motion for an Enlargement of Time has been served on all parties to this proceeding through the Electronic Information Exchange, the NRC's e-filing system, in the above-captioned proceeding this 18th day of August 2019.

Signed (electronically) by
SETH SCHOFIELD
Senior Appellate Counsel
Energy and Environment Bureau
Massachusetts Attorney General's Office
One Ashburton Place, 18th Floor
Boston, Massachusetts 02108
617-963-2000
seth.schofield@mass.gov

Dated: August 18, 2019